

EXHIBIT D

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

DIRECT DIAL: (202) 223-7407
EMAIL: KSMITH@PAULWEISS.COM

NEW YORK
BEIJING
BRUSSELS
HONG KONG
LONDON

LOS ANGELES
SAN FRANCISCO
TOKYO
TORONTO
WILMINGTON

March 7, 2025

VIA MDL CENTRALITY, CERTIFIED MAIL, AND EMAIL

Re: MDL 3084 – Order re Withdrawal of Counsel in Case No. 3:24-CV-05312-CRB, MDLC ID 2021

Dear Nicole Naccarato,

We write on behalf of our client, Uber Technologies Inc. (“Uber”), regarding *Nicole Naccarato v. Uber Technologies, Inc., et al.*, 3:24-CV-05312-CRB, MDLC ID 2021, which you filed in *In re Uber Technologies, Inc. Passenger Sexual Assault Litigation*, 3:23-md-03084-CRB (“the MDL”). On January 29, 2025, Estey & Bomberger, LLP moved to withdraw its representation of you on the grounds that they have been unable to reach you since October 27, 2022 despite “numerous attempts to contact [you] via phone, email, and text.” *Nicole Naccarato*, No. 3:24-CV-05312-CRB, ECF 5 at 2 (Exhibit 1). On March 3, 2025, the Court granted that motion. *Nicole Naccarato*, No. 3:24-CV-05312-CRB, ECF 6 at 1 (Exhibit 2). It is our understanding that you have not found replacement counsel and are no longer represented by an attorney. If that understanding is incorrect, please provide this communication to your attorney, and have your attorney contact us via the information provided above or below as soon as possible.

The Court’s Order states that “Within 28 days of this order, [the] plaintiff shall file a notice indicating whether they intend to pursue the action with new counsel or representing themselves. If [the] plaintiff does not file that notice, the Court will dismiss their case without prejudice.” Exhibit 2 at 1. The Court also ordered Uber’s counsel to “provide a copy of this order to the plaintiff[.]” *Id.* The Court’s Order is attached to this correspondence as Exhibit 2. Per this Order, you must “file a notice indicating whether [you] intend to pursue the action with new counsel or representing [yourself]” within 28 days of March 3, 2025, i.e. by Monday, March 31, 2025, or else “the Court will dismiss [your] case without prejudice.”

We ask that you please email us confirmation of your receipt of this letter, via email to ksmith@paulweiss.com, lmurray@paulweiss.com, and ldugre@paulweiss.com, at your earliest opportunity. If you would like to discuss the letter’s contents further, please let us know, and we would be happy to organize a meet and confer.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

Nicole Naccarato

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Sincerely,

**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**

By: /s/ Kyle Smith

Kyle Smith
2001 K Street, NW
Washington, DC 20006
(202) 223-7407
ksmith@paulweiss.com

EXHIBIT 1

Stephen J. Estey (SBN 163093)
R. Michael Bomberger (SBN 169866)
Angela J. Nehmens (SBN 309433)
ESTEY & BOMBERGER, LLP
2869 India Street
San Diego, CA 92103
Tel: (619) 295-0035
Fax: (619) 295-0172
Email: steve@estey-bomberger.com
Email: mike@estey-bomberger.com
Email: angela@estey-bomberger.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

MDL No. 3084 CRB

**NOTICE OF MOTION AND MOTION
TO WITHDRAW AS COUNSEL FOR
PLAINTIFF NICOLE NACCARATO**

This Document Relates to:

JURY TRIAL DEMANDED

*NICOLE NACCARATO v. UBER
TECHNOLOGIES, INC., et al.*
Case No. 3:24-cv-05312

Judge: Hon. Charles R. Breyer
Date: March 7, 2025
Time: 10:00 a.m.
Courtroom: 6 – 17th Floor; Videoconference

NOTICE OF MOTION & MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD, PLEASE TAKE NOTICE
that on Friday, March 7, 2025 at 10:00 a.m. by videoconference (accessible at
[https://canduscourts.zoomgov.com/j/1611472837?pwd=cy81NUdINWZmeEpFUjlHRXM3djZ5
QT09](https://canduscourts.zoomgov.com/j/1611472837?pwd=cy81NUdINWZmeEpFUjlHRXM3djZ5QT09)), before the Honorable Charles R. Breyer, in Courtroom 6 of this Court, located at 450
Golden Gate Avenue, San Francisco, CA 94102, Estey & Bomberger LLP (E&B), counsel of

record for Plaintiff Naccarato (“Plaintiff”), moves this Court for an order permitting its withdrawal as counsel for Plaintiff.

This Motion is made pursuant to Local Rule 11-5(a) and California Rules of Professional Conduct 1.16(b)(4) and 1.16(d). This Notice of Motion & Motion is based on the below Memorandum in Support and the accompanying Declaration of Angela J. Nehmens, filed herewith as Exhibit A. A Proposed Order is attached as Exhibit B.

MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL

Pursuant to Local Civil Rule 11-5(a) and California Rules of Professional Conduct 1.16(b)(4) and 1.16(d), E&B submits this Memorandum of Law in support of its Motion to Withdraw as Counsel for Plaintiff Naccarato. E&B respectfully requests the Court grant the Motion.

STATEMENT OF FACTS

Plaintiff Naccarato is currently represented by E&B. Plaintiff’s claims were filed in the United States District Court for the Northern District of California as Case No. 3:24-cv-05312 on August 16, 2024. Plaintiff’s case was consolidated into the multidistrict litigation *In re: Uber Technologies, Inc. Passenger Sexual Assault Litigation*, Case No. 3:23-md-03084, on August 19, 2024.

E&B has been unable to reach Plaintiff since October 27, 2022. *See* Ex. A, Declaration of Angela J. Nehmens (“Nehmens Decl.”) at ¶ 2. E&B has made numerous attempts to contact Plaintiff via phone, email, and text. Nehmens Decl. ¶ 4(a)-(d). E&B repeatedly explained why Plaintiff’s participation was necessary to prosecute this case. *Id.* Since October 27, 2022, E&B has also sent numerous additional letters via US Mail noting discovery deadlines, explaining the risk of dismissal, and explaining that E&B could not continue to represent Plaintiff without her input. Nehmens Decl. ¶ 4(b)-(d). During this time, E&B continued to meet and confer with opposing counsel, seeking extensions for discovery deadlines to protect Plaintiff’s interests. Nehmens Decl. ¶ 5.

On October 29, 2024, E&B formally advised Plaintiff by email and Certified Mail that it would be unable to move forward with her case and that Uber would move to dismiss her case if her Plaintiff Fact Sheet (PFS) was unable to be completed. Nehmens Decl. ¶ 4(c). E&B also advised

Uber of its intent to withdraw. Nehmens Decl. ¶ 7. To date, Plaintiff has not contacted E&B, has not agreed to or informed E&B of her desire to voluntarily dismiss her case, and has not informed E&B that alternate counsel has been retained. Nehmens Decl. ¶ 6. E&B thus remains counsel of record for Plaintiff but also remains unable to reach her.

ARGUMENT

E&B should be permitted to withdraw as counsel for Plaintiff. An attorney may withdraw from a case by obtaining an order from the court after reasonable advance written notice has been provided to the client and to all other parties. Civ. L.R. 11-5(a). Attorneys practicing before this Court are also required to adhere to the California Rules of Professional Conduct. Civ. L.R. 11-4(a)(1). Under those rules, a “lawyer shall not terminate a representation until the lawyer has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client.” Cal. Rules. Prof. Conduct 1.16(d)(1).

E&B has given Plaintiff appropriate advance notice of requirements to continue her case beginning in late 2022 and culminating with final notice on October 29, 2024 and another attempt to reach her by text message on November 19, 2024. Nehmens Decl. ¶ 4(b)-(d). E&B has also given advance notice to Uber. Nehmens Decl. ¶ 7. E&B has taken all steps possible to avoid prejudice to Plaintiff. Nehmens Decl. ¶ 8. In multiple letters, calls, emails, and texts, E&B explained the consequences of failing to contact the firm or to meet discovery deadlines. Nehmens Decl. ¶ 4. At no time has Plaintiff replied to our communications. Nehmens Decl. ¶ 6. E&B also continued negotiating discovery extensions with Uber for the past two months to protect Plaintiff’s case from dismissal. Nehmens Decl. ¶ 5. E&B has thus taken all reasonable steps to avoid foreseeable prejudice to the Plaintiff. Nehmens Decl. ¶ 8.

Under California Rule of Professional Conduct 1.16(b)(4), a lawyer may withdraw from a case if “the client . . . renders it unreasonably difficult for the lawyer to carry out the representation effectively.” Here, Plaintiff has failed to communicate with E&B and failed to provide information required to prosecute her case. Nehmens Decl. ¶¶ 2-3. E&B has been unable to meet discovery deadlines in this case because, for example, the Plaintiff Fact Sheet requires Plaintiff’s input and verification. *See* Nehmens Decl. ¶ 3. Plaintiff’s conduct thus falls into the

express terms of Rule 1.16 regarding permissive withdrawal.

Because this motion is not accompanied by a substitution of counsel or an agreement by Plaintiff to proceed pro se, E&B agrees to the condition imposed by Local Rule 11-5(b) to serve Plaintiffs with all papers in this matter, unless or until Plaintiff appears pro se, other counsel appears on Plaintiff's behalf, or upon further order of the Court. *See* Nehmens Decl. ¶ 9.

CONCLUSION

E&B respectfully requests that the Court enter an order terminating its representation of Plaintiff Naccarato and allowing Plaintiff 30 days to retain new counsel.

DATED: January 29, 2025

Respectfully Submitted,

ESTEY & BOMBERGER, LLP

/s/ Angela J. Nehmens, Esq.

Stephen J. Estey

Angela J. Nehmens

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2025, I electronically filed the above document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

By: /s/ Angela J. Nehmens

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

MDL No. 3084

**ORDER GRANTING MOTIONS TO
WITHDRAW**

This Order Relates To:

See Attachment

Re: Dkt. Nos. 2109, 2110, 2112, 2173,
2175, 2176, 2178, 2179, 2180

The above captioned motions to withdraw are granted. Within 28 days of this order, each plaintiff shall file a notice indicating whether they intend to pursue the action with new counsel or representing themselves. If any plaintiff does not file that notice, the Court will dismiss their case without prejudice.

Uber's counsel shall provide a copy of this order to the plaintiffs and file a declaration within 7 days of this ruling explaining how they did so.

IT IS SO ORDERED.

Dated: March 3, 2025



CHARLES R. BREYER
United States District Judge

ATTACHMENT

This Order relates to:

S.H. v. Uber, Inc.,
Case No. 3:24-cv-07156-CRB

B.S. v. Uber, Inc.,
Case No. 3:24-cv-06948-CRB

C.S. v. Uber, Inc.,
Case No. 3:24-cv-06923-CRB

Jane Doe EB 22 v. Uber, Inc.,
Case No. 3:24-cv-05245-CRB

Naccarato v. Uber, Inc.,
Case No. 3:24-cv-05312-CRB

Jane Doe EB 19 v. Uber, Inc.,
Case No. 3:24-cv-05217-CRB

Jane Doe EB 10 v. Uber, Inc.,
Case No. 3:24-cv-05197-CRB

K.B. v. Uber, Inc.,
Case No. 3:24-cv-05719-CRB

D.M.S. v. Uber, Inc.,
Case No. 3:24-cv-05606-CRB